

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
HAWAII ELECTRIC LIGHT COMPANY, INC.)  
For Approval of Rate Increases and )  
Revised Rate Schedules. )  
\_\_\_\_\_)

DOCKET NO. 05-0315

ORDER NO. 22903

Filed Sept. 28, 2006  
At 12 o'clock P.M.

Karen Higdon  
Chief Clerk of the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
HAWAII ELECTRIC LIGHT COMPANY, INC.)  
For Approval of Rate Increases and )  
Revised Rate Schedules. )  
\_\_\_\_\_)

Docket No. 05-0315

Order No. 22903

ORDER

By this Order, the commission adopts, with modification, the proposed Stipulated Prehearing Order submitted by HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY ("Consumer Advocate") (collectively, the "Parties"), Keahole Defense Coalition, Inc. ("KDC"), and Rocky Mountain Institute ("RMI") (collectively, the "Participants") on September 12, 2006.<sup>1</sup>

I.

Proposed Stipulated Prehearing Order

On May 5, 2006, HELCO filed an application for approval of a general rate increase and revised rate schedules and rules ("Application"). Pursuant to Order No. 22663, filed on August 1, 2006, the commission granted participation status without

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<sup>1</sup>The Consumer Advocate is an *ex officio* party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a). The proposed Stipulated Prehearing Order is attached as Exhibit 1 to this Order.

intervention, to KDC and RMI. The commission limited KDC's participation to those issues related to the expansion of the HELCO Keahole Generating Station. See Order No. 22663 at 7. RMI's participation was limited to the issues of tiered rate pricing, time of use pricing, energy cost adjustment charge, net energy metering and renewable energy and energy efficiency programs for affordable homes. Both KDC and RMI were limited to responding to any discovery requests, filing a statement of position and responding to questions at any evidentiary hearing. Id. at 8-9.

Also, in Order No. 22663, the commission set the deadline for the Parties and Participants to timely submit their proposed stipulated procedural schedule as August 21, 2006. By letter dated August 21, 2006, HELCO requested an extension of time in which to file the proposed stipulated prehearing order. By letter dated September 1, 2006, the commission granted HELCO's request, giving the Parties and Participants until September 8, 2006, in which to file a proposed stipulated prehearing order. On September 12, 2006, the Parties submitted their proposed Stipulated Prehearing Order, four days after the deadline.<sup>2</sup>

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<sup>2</sup>On September 8, 2006, HELCO informed commission staff via telephone that while RMI was in agreement with the proposed Stipulated Prehearing Order, HELCO had been unable to obtain RMI's signature. By letter dated and filed on September 14, 2006, HELCO provided the commission with the signature page of the proposed Stipulated Prehearing Order signed by RMI.

Additionally, pursuant to commission request, on September 13, 2006, HELCO filed replacement pages 10 and 11 of the proposed Stipulated Prehearing Order with a revised first paragraph in section III.H, consistent with two recent commission orders governing stipulated prehearing and procedural orders, i.e., In re Young Bros., Ltd., Docket No. 2006-0120, Order

The Parties have not moved for an enlargement of time claiming excusable neglect under HAR § 6-61-23(a)(2).<sup>3</sup> Nonetheless, the commission finds that the issuance of a prehearing order at this juncture will aid in the "just, speedy, and inexpensive determination of [this] proceeding[,]" consistent with HAR § 6-61-1. Thus, in this instance, the commission will adopt the Parties' and Participants' proposed Stipulated Prehearing Order to govern the proceedings in this docket, with the following modifications.

A.

Section I of the Proposed Stipulated Prehearing Order

Act 162, Session Laws of Hawaii (2006) amended Hawaii Revised Statutes § 269-16 to provide that:

Any automatic fuel rate adjustment clause requested by a public utility in an application

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No. 22695, filed on August 7, 2006, and In re Kauai Island Util. Coop., Docket No. 2006-0134, Order No. 22666, filed on August 2, 2006.

<sup>3</sup>HAR § 6-61-23(a)(2) states in relevant part:

Enlargement. (a) When by this chapter or by notice or by order of the commission, any act is required or allowed to be done at or within a specified time, the commission for good cause shown may at any time, in its discretion:

. . . . .

(2) Upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect[.]

HAR § 6-61-23(a)(2).

filed with the commission shall be designed, as determined in the commission's discretion, to:

(1) Fairly share the risk of fuel cost changes between the public utility and its customers;

(2) Provide the public utility with sufficient incentive to reasonably manage or lower its fuel costs and encourage greater use of renewable energy;

(3) Allow the public utility to mitigate the risk of sudden or frequent fuel cost changes that cannot otherwise reasonably be mitigated through other commercially available means, such as through fuel hedging contracts;

(4) Preserve, to the extent reasonably possible, the public utility's financial integrity; and

(5) Minimize, to the extent reasonably possible, the public utility's need to apply for frequent applications for general rate increases to account for the changes to its fuel costs.

Given the recent change in the law, the commission finds it appropriate to include in this docket the issue of whether HELCO's energy cost adjustment clause ("ECAC") complies with the requirements of Act 162.<sup>4</sup>

In addition, by letter dated August 8, 2006, the commission informed the Parties and Participants that the commission was required to consider whether it should adopt,

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<sup>4</sup>By Order No. 22537, filed on June 19, 2006, in Docket No. 04-0113, the commission ordered the parties to Docket No. 04-0113 to determine a procedural schedule to address the issues relating to HELCO's energy cost adjustment clause, as raised by Act 162. By Amended and Restated Stipulation filed on August 7, 2006, the parties to Docket No. 04-0113 stated that "HELCO and the Consumer Advocate intend to address the factors identified in Act 162 in their evidentiary submissions in HELCO's pending rate case, Docket No. 05-0315."

modify, or decline to adopt, in whole or in part, the standards set forth in sections 111(d)(14) and 112(b)(4) of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), as amended by the Energy Policy Act of 2005 ("EPAct").<sup>5</sup> Those sections require

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<sup>5</sup>Sections 111(d)(14) and 112(b)(4) of PURPA, as amended by EPAct provide, in relevant part:

. . . The types of time-based rate schedules that may be offered under the schedule . . . include, among others—

(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption;

(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly; and

(iv) credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce a utility's planned capacity obligations.

. . . Each electric utility . . . shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility

the commission to commence consideration of the following matters governing time-based metering and communications:

[E]ach electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

16 U.S.C. § 2621(d)(14); see also 16 U.S.C. § 2622(b)(4). The commission also requested that the Parties and Participants file position statements describing their position, if any, on whether the commission should adopt, modify, or decline to adopt, in whole or part, the standards articulated above, as well as procedural comments and suggestions as to how this issue should be considered in this docket or in a separate proceeding.

By letter dated September 15, 2006, HELCO filed its position statement recommending that the commission decline to adopt the EAct standards since HELCO already has time-of-use tariffs and has proposed additional time-of-use rates in this proceeding. Neither the Consumer Advocate, KDC nor RMI filed a position statement on this issue.

While the commission is cognizant of the time-of-use rates proposed in this docket, the commission is concerned that

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and customer to offer and receive such rate, respectively.

....

HELCO's proposals do not sufficiently address all of the standards, as set forth in EAct. Accordingly, the commission finds the abovementioned standard relevant to the issues in this docket. The commission also finds that the standards can be most efficiently considered in this docket, as opposed to a separate docket. Accordingly, the commission includes consideration of the EAct standards governing time-based metering and communications as an issue in this docket.

Based on the foregoing, the commission amends Section I of the proposed Stipulated Prehearing Order as follows:<sup>6</sup>

I. STATEMENT OF THE ISSUES

The issues in this case are:

. . . .

3. Whether HELCO's ECAC complies with the requirements of Act 162.

4. Whether the commission should adopt, modify, or decline to adopt, in whole or part, the standards for time-based metering and communications articulated in section 111(d)(14) of PURPA, as amended by EAct (16 U.S.C. § 2621(d)(14)).

B.

Section II of the Proposed Stipulated Prehearing Order

In Section II (Schedule of Proceedings) of the proposed Stipulated Prehearing Order, the Parties and Participants detail their schedule for the docket. As an initial matter, the commission notes that, pursuant to HRS § 269-16(d), the

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<sup>6</sup>For all revisions herein, deletions are bracketed and additions are underscored.



nine-month deadline for commission action in this docket is February 5, 2007. The proposed Stipulated Prehearing Order, however, includes twelve deadlines that occur on or after February 5, 2007. Thus, by its proposed Stipulated Prehearing Order, HELCO has effectively waived commission action by February 5, 2007.

In addition, after reviewing the Schedule of Proceedings, the commission finds it appropriate to amend Section II, Schedule of Proceedings by: (1) requiring HELCO to file a Statement of Probable Entitlement by March 9, 2007; (2) providing for a Consumer Advocate response, if any, to HELCO's Statement of Probable Entitlement, by March 16, 2007; (3) changing the date of the prehearing conference from April 27, 2007, to May 4, 2007; and (4) changing the date of the evidentiary hearing from a start date of April 30, 2007, to the week of May 7, 2007. Therefore, Section II, Schedule of Proceedings, will be amended to read as follows:

HELCO Application, Direct Testimonies, Exhibits and Workpapers	May 5, 2006
Public Hearings	June 26-27, 2006
Consumer Advocate Information	July 25, 2006
Requests ("IRs") To HELCO	August 25, 2006
	September 8, 2006
	September 25, 2006
	October 18, 2006
	November 1, 2006
HELCO Responses to Consumer	August 15, 2006
Advocate IRs	September 15, 2006
	September 29, 2006
	October 16, 2006
	November 8, 2006
	December 1, 2006

Consumer Advocate Testimonies, Exhibits and Workpapers Participants' Statement of Position	January 12, 2007
HELCO IRs to Consumer Advocate, KDC and RMI Consumer Advocate IRs to KDC and RMI	January 16-26, 2007
Consumer Advocate, KDC and RMI Responses to HELCO IRs KDC/RMI Responses to Consumer Advocate's IRs.	February 5-14, 2007
Settlement Proposal Submitted to Consumer Advocate	February 16, 2007
First Settlement Discussion Between HELCO and Consumer Advocate	February 22-23, 2007
HELCO Rebuttal Testimonies, Exhibits And Workpapers HELCO Statement of Probable Entitlement	March 9, 2007
Consumer Advocate Response to HELCO Statement of Probable Entitlement	March 16, 2007
Consumer Advocate Rebuttal IRs ("RIRs") to HELCO	March 14-23, 2007
HELCO's Responses to Consumer Advocate's RIRs	April 2-9, 2007
Second Settlement Discussion Between HELCO and the Consumer Advocate	April 17-19, 2007
Settlement Letter to the Public Utilities Commission	April 23, 2007
Prehearing Conference	May 4, 2007
Evidentiary Hearing	Week of May 7, 2007
Simultaneous Opening Briefs by Parties	4 weeks after Transcripts
Simultaneous Reply Briefs by Parties	3 weeks after Opening Briefs

C.

Section III of the Proposed Stipulated Prehearing Order

The commission will also amend Section III.B.,  
Witnesses, for clarity purposes, as follows:

B. Witnesses

Witnesses submitting written testimony and exhibits [and representatives of Participants] shall be made available for cross-examination at the evidentiary hearing. Witnesses [(Participant representatives)] should file workpapers used in preparing the evidence they sponsor at the time they submit their testimony and exhibits [(statement of position)] and have such workpapers available at the evidentiary hearing. Witnesses [and Participant representatives] will not be permitted to read prefiled written testimony at the evidentiary hearings.

At the evidentiary hearing, each witness may give a brief oral summary of the written testimony and exhibits and shall summarize the issues raised by such testimony [or statement of position]. Each witness [/Participant representative] shall be subject to cross-examination for both direct and rebuttal testimony and exhibits [or statement of position].

Representatives of Participants shall be made available for questioning at the evidentiary hearing. Participant representatives should file their workpapers used in preparing the evidence they sponsor at the time they submit their statement of position.

The Parties and Participants shall cooperate to accommodate the schedules of mainland witnesses and will inform the Commission in advance of any scheduling difficulties with respect to such witnesses . . . . .

The commission will also amend Section III.E.1, Testimony, Exhibits, Workpapers, Statement of Position, Information Requests, Responses to Information Requests, Briefs to require that eleven copies be delivered to the commission.

## II.

### Orders

#### THE COMMISSION ORDERS:

1. Section I of the proposed Stipulated Procedural Order filed on September 12, 2006, is amended, to include the following issues in this proceeding:

#### I. STATEMENT OF THE ISSUES

The issues in this case are:

. . . .

3. Whether HELCO's ECAC complies with the requirements of Act 162.
4. Whether the commission should adopt, modify, or decline to adopt in whole or part, the standards for time-based metering and communications articulated in section 111(d)(14) of PURPA, as amended by EPCRA (16 U.S.C. § 2621(d)(14)).

2. Section II, Schedule of Proceedings, is amended to read as follows:

HELCO Application, Direct Testimonies, Exhibits and Workpapers	May 5, 2006
Public Hearings	June 26-27, 2006
Consumer Advocate Information Requests ("IRs") To HELCO	July 25, 2006 August 25, 2006 September 8, 2006 September 25, 2006 October 18, 2006 November 1, 2006
HELCO Responses to Consumer Advocate IRs	August 15, 2006 September 15, 2006 September 29, 2006 October 16, 2006 November 8, 2006 December 1, 2006

Consumer Advocate Testimonies, Exhibits and Workpapers Participants' Statement of Position	January 12, 2007
HELCO IRs to Consumer Advocate, KDC and RMI Consumer Advocate IRs to KDC and RMI	January 16-26, 2007
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Consumer Advocate Response to HELCO Statement of Probable Entitlement	March 16, 2007
Consumer Advocate Rebuttal IRs ("RIRs") to HELCO	March 14-23, 2007
HELCO's Responses to Consumer Advocate's RIRs	April 2-9, 2007
Second Settlement Discussion Between HELCO and the Consumer Advocate	April 17-19, 2007
Settlement Letter to the Public Utilities Commission	April 23, 2007
Prehearing Conference	May 4, 2007
Evidentiary Hearing	Week of May 7, 2007
Simultaneous Opening Briefs by Parties	4 weeks after Transcripts
Simultaneous Reply Briefs by Parties	3 weeks after Opening Briefs

3. Section III.B., Witnesses, is amended to read as follows:

B. Witnesses

Witnesses submitting written testimony and exhibits should file workpapers used in preparing the evidence they sponsor at the time they submit their testimony and exhibits and have such workpapers available at the evidentiary hearing. Witnesses will not be permitted to read prefiled written testimony at the evidentiary hearings.

At the evidentiary hearing, each witness may give a brief oral summary of the written testimony and exhibits and shall summarize the issues raised by such testimony. Each witness shall be subject to cross-examination for both direct and rebuttal testimony and exhibits.

Representatives of Participants shall be made available for questioning at the evidentiary hearing. Participant representatives should file their workpapers used in preparing the evidence they sponsor at the time they submit their statement of position.

The Parties and Participants shall cooperate to accommodate the schedules of mainland witnesses and will inform the Commission in advance of any scheduling difficulties with respect to such witnesses . . . .


4. Section III.E.1, Testimony, Exhibits, Workpapers, Statement of Position, Information Requests, Responses to Information Requests, Briefs is amended to require that eleven copies be delivered to the commission.

5. In all other respects, the proposed Stipulated Prehearing Order submitted by the Parties and Participants, filed on September 12, 2006, and attached as Exhibit 1 hereto, is adopted as modified herein to govern the proceedings in this docket.

DONE at Honolulu, Hawaii

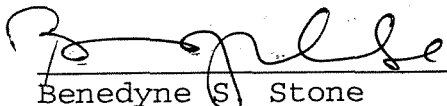
SEP 28 2006

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By   
John E. Cole, Commissioner

APPROVED AS TO FORM:

  
Benedyne S. Stone  
Commission Counsel

05-0315.sl

Exhibit 1

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

**FILED**

SEP 12 2006

Public Utilities Commission

-----In the Matter of the Application of-----)  
HAWAII ELECTRIC LIGHT COMPANY, INC. )  
For Approval of Rate Increases and Revised )  
Rate Schedules and Rules. )  
\_\_\_\_\_ )

Docket No. 05-0315

STIPULATED PREHEARING ORDER NO. \_\_\_\_\_

Filed \_\_\_\_\_, 2006

At \_\_\_\_\_ o'clock \_\_\_\_\_.M.

\_\_\_\_\_  
Chief Clerk of the Commission




BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

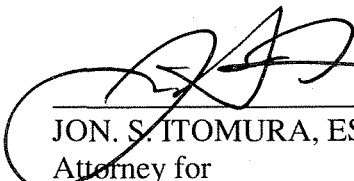
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HAWAII ELECTRIC LIGHT COMPANY, INC. ) Docket No. 05-0315  
For Approval of Rate Increases and Revised )  
Rate Schedules and Rules. )  
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STIPULATED PREHEARING ORDER

Applicant Hawaii Electric Light Company, Inc. ("HELCO"), the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the "Consumer Advocate" or "CA"), Rocky Mountain Institute ("RMI") and the Keahole Defense Coalition, Inc. ("KDC") hereby stipulate that the attached Stipulated Prehearing Order is mutually acceptable to each respective Party/Participant.

DATED: Honolulu, Hawaii, September 11, 2006.

  
\_\_\_\_\_  
THOMAS W. WILLIAMS, JR., ESQ.  
PETER Y. KIKUTA, ESQ.  
Attorneys for  
Hawaii Electric Light Company, Inc.

  
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JON. S. ITOMURA, ESQ.  
Attorney for  
Division of Consumer Advocacy  
Department of Commerce and Consumer Affairs

\_\_\_\_\_  
KEICHI IKEDA  
President  
Keahole Defense Coalition, Inc.

\_\_\_\_\_  
E. KYLE DATTA  
Managing Director of Research and Consulting  
Rocky Mountain Institute

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

-----In the Matter of the Application of-----)  
HAWAII ELECTRIC LIGHT COMPANY, INC. ) Docket No. 05-0315  
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STIPULATED PREHEARING ORDER

Applicant Hawaii Electric Light Company, Inc. ("HELCO"), the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the "Consumer Advocate" or "CA"), Rocky Mountain Institute ("RMI") and the Keahole Defense Coalition, Inc. ("KDC") hereby stipulate that the attached Stipulated Prehearing Order is mutually acceptable to each respective Party/Participant.

DATED: Honolulu, Hawaii, September 11, 2006.

\_\_\_\_\_  
THOMAS W. WILLIAMS, JR., ESQ.  
PETER Y. KIKUTA, ESQ.  
Attorneys for  
Hawaii Electric Light Company, Inc.

\_\_\_\_\_  
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Division of Consumer Advocacy  
Department of Commerce and Consumer Affairs

\_\_\_\_\_  
*Keichi Ikeda*  
KEICHI IKEDA  
President  
Keahole Defense Coalition, Inc.

\_\_\_\_\_  
E. KYLE DATTA  
Managing Director of Research and Consulting  
Rocky Mountain Institute

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

-----In the Matter of the Application of-----)	)	
HAWAII ELECTRIC LIGHT COMPANY, INC.	)	Docket No. 05-0315
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STIPULATED PREHEARING ORDER


Applicant Hawaii Electric Light Company, Inc. ("HELCO"), the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs (the "Consumer Advocate" or "CA"), Rocky Mountain Institute ("RMI") and the Keahole Defense Coalition, Inc. ("KDC") hereby stipulate that the attached Stipulated Prehearing Order is mutually acceptable to each respective Party/Participant.

DATED: Honolulu, Hawaii, \_\_\_\_\_.

\_\_\_\_\_  
THOMAS W. WILLIAMS, JR., ESQ.  
PETER Y. KIKUTA, ESQ.  
Attorneys for  
Hawaii Electric Light Company, Inc.

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JON. S. ITOMURA, ESQ.  
Attorney for  
Division of Consumer Advocacy  
Department of Commerce and Consumer Affairs

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BEFORE THE PUBLIC UTILITIES COMMISSION  
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-----In the Matter of the Application of-----)	)	
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	)	
For Approval of Rate Increases and Revised	)	
Rate Schedules and Rules.	)	
_____	)	

STIPULATED PREHEARING ORDER

On May 5, 2006, Hawaii Electric Light Company, Inc. ("HELCO") filed an application for approval of a general rate increase and revised rate schedules and rules ("Application"). HELCO served copies of the Application on the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate" or "CA") and the Mayor of the County of Hawaii.

On June 26 and 27, 2006, the Commission held public hearings at the Hilo High School Cafeteria and the Kealahou Intermediate School Cafeteria on the island of Hawaii.

On July 6, 2006, Keahole Defense Coalition, Inc. ("KDC") filed a Motion to Participate in this docket. On July 7, 2006, Rocky Mountain Institute ("RMI") filed a Motion to Intervene in this docket.

On July 14, 2006, HELCO filed a memorandum in response to KDC's Motion to Participate, and on July 18, 2006, filed a memorandum in opposition to RMI's Motion to Intervene.

On August 1, 2006, the Commission issued Order No. 22663, which 1) granted KDC's

Motion to Participate, “limited to those issues related to the expansion of HELCO’s Keahole Generating Station” and stated that “KDC’s participation is limited to responding to any discovery requests, filing a statement of position, and responding to questions at any evidentiary hearing”, 2) denied RMI’s Motion to Intervene, granted RMI limited participant status in this docket, “restricted to the issues set forth in its Motion to Intervene, i.e., tiered rate pricing, time of use pricing, energy cost adjustment charge, net energy metering and the renewable energy and energy efficiency program for affordable homes”, and stated that “RMI’s participation is limited to responding to any discovery requests, filing a statement of position, and responding to questions at any evidentiary hearing”, 3) directed HELCO and the Consumer Advocate (collectively, “Parties”), and KDC and RMI (collectively “Participants”) to submit to the Commission a stipulated prehearing order, incorporating their agreed-upon issues, procedures, and schedule with respect to this proceeding, within fifteen days from the date of the order,<sup>1</sup> and 4) directed each Party and Participant to submit a proposed stipulated prehearing order by the same date if the Parties and Participants are unable to agree to a stipulated prehearing order. Order No. 22663 also stated that any stipulated procedural schedule should be based on an evidentiary hearing set for the week of October 16, 2006.

HELCO, the Consumer Advocate, KDC and RMI have reached agreement on the prehearing matters and submitted a Stipulated Prehearing Order acceptable to the Parties/Participants.

ACCORDINGLY, IT IS ORDERED that the following Statement of Issues, Schedule of Proceedings, and procedures shall be utilized in this docket.

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<sup>1</sup> Fifteen days from the date of the order (August 1, 2006) is August 16, 2006. Since the order was served by mail, two days are added to the prescribed period, pursuant to §6-61-21(e) of the Hawaii Administrative Rules (“HAR”). August 18, 2006 was a state holiday (Statehood Day). Thus, pursuant to HAR §6-61-22, the stipulated prehearing order was due for filing on August 21, 2006. On August 21,

## **I. STATEMENT OF THE ISSUES**

The issues in this case are:

1. Is HELCO's proposed rate increase reasonable?
  - a. Are the proposed tariffs, rates, charges and rules just and reasonable?
  - b. Are the revenue forecasts for Test Year 2006 at present rates and proposed rates reasonable?
  - c. Are the projected operating expenses for Test Year 2006 reasonable?
  - d. Is the projected rate base for Test Year 2006 reasonable, and are the properties included in rate base used or useful for public utility purposes?
  - e. Is the requested rate of return fair?
2. What is the amount of the Interim Rate Increase, if any, to which HELCO is probably entitled under §269-16(d) of the Hawaii Revised Statutes?

## **II. SCHEDULE OF PROCEEDINGS**

HELCO Application, Direct Testimonies, Exhibits and Workpapers	May 5, 2006
Public Hearings	June 26-27, 2006
CA Information Requests ("IRs") to HELCO <sup>2</sup>	July 25, 2006 August 25, 2006 September 8, 2006 September 25, 2006 October 18, 2006 November 1, 2006
HELCO Responses to CA IRs <sup>2</sup>	August 15, 2006 September 15, 2006 September 29, 2006 October 16, 2006

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2006, HELCO filed a request to extend the filing date for the stipulated prehearing order from August 21 to September 8, 2006. On September 1, 2006, the Commission approved HELCO's request.

<sup>2</sup> Whenever possible, Parties/Participants will provide a copy of documents electronically upon request.

	November 8, 2006 December 1, 2006
CA Testimonies, Exhibits and Workpapers Participants' Statement of Position	January 12, 2007
HELCO IRs to CA, KDC and RMI <sup>2</sup> CA IRs to KDC and RMI <sup>2</sup>	January 16-26, 2007
CA/KDC/RMI responses to HELCO IRs <sup>2</sup> KDC/RMI responses to CA IRs <sup>2</sup>	February 5-14, 2007
Settlement Proposal Submitted to CA	February 16, 2007
First Settlement Discussion between HELCO and CA	February 22-23, 2007
HELCO Rebuttal Testimonies, Exhibits, and Workpapers	March 9, 2007
CA Rebuttal IRs ("RIRs") to HELCO <sup>2</sup>	March 14-23, 2007
HELCO's Responses to CA RIRs <sup>2</sup>	April 2-9, 2007
Second Settlement Discussion between HELCO and CA	April 17-19, 2007
Settlement Letter to PUC	April 23, 2007
Prehearing Conference	April 27, 2007
Evidentiary Hearing	beginning on April 30, 2007
Simultaneous Opening Briefs by Parties	4 weeks after Transcripts
Simultaneous Reply Briefs by Parties	3 weeks after Opening Briefs

### **III. MISCELLANEOUS MATTERS TO FACILITATE AND EXPEDITE THE ORDERLY CONDUCT OF THESE PROCEEDINGS**

#### **A. Requests for Information**

A Party to this proceeding may submit information requests to another Party or Participant within the time schedule specified in this Stipulated Prehearing Order. If a Party or Participant is unable to provide the information requested within the prescribed time period, it should so indicate to the inquiring Party as soon as possible. The Parties/Participants shall then

endeavor to agree upon a later date for submission of the requested information. If the Parties/Participants are unable to agree, the responding Party or Participant may seek approval for the late submission from the Commission upon a showing of good cause. It is then within the Commission's discretion to approve or disapprove such late filings and take any additional action that may be appropriate, such as extending the date for the Party/Participant to respond.

In lieu of responses to information requests that would require the reproduction of voluminous documents or materials (e.g. documents over 50 pages), the documents or materials may be made available for reasonable inspection and copying at a mutually agreeable designated location and time. In the event such information is available on computer diskette or other readily usable electronic medium, the Party/Participant responding to the information request shall make the diskette or such electronic medium available to the other Parties, and the Commission. Subject to objections that may be raised and to the extent practicable, the electronic files for spreadsheets will contain all cell references and formulae intact, and will not be converted to values prior to submission. A Party/Participant shall not be required, in a response to an information request, to provide data that is/are already on file with the Commission or otherwise part of the public record, or that may be stipulated to pursuant to Part D, infra. The responding Party/Participant shall, in lieu of production of a document in the public record, include in its response to the information request an identification of the document with reasonable specificity sufficient to enable the requesting Party to locate and copy the document. In addition, a Party/Participant shall not be required, in a response to an information request, to make computations, compute ratios, reclassify, trend, calculate, or otherwise rework data contained in its files or records.

For each response to an information request, the responding Party/Participant should



identify the person who is responsible for preparing the response as well as the witnesses who will be responsible for sponsoring the response at the evidentiary hearing.

A Party/Participant may object to responding to an information request that it deems to be irrelevant, immaterial, unduly burdensome, onerous or repetitious, or where the response contains information claimed to be privileged or subject to protection (confidential information). If a Party/Participant claims that information requested is confidential, and withholds production of all or a portion of such confidential information, the Party/Participant shall: (1) provide information reasonably sufficient to identify the confidential information withheld from the response, without disclosing privileged or protected information; (2) state the basis for withholding the confidential information (including, but not limited to, the specific privilege applicable or protection claimed for the confidential information and the specific harm that would befall the Party/Participant if the information were disclosed); and (3) state whether the Party/Participant is willing to provide the confidential information to some or all representatives of the Party pursuant to a protective order.

A Party seeking production of documents notwithstanding a Party's/Participant's claim of confidentiality, may file a motion to compel production with the Commission.

The responses of each Party/Participant to information requests shall adhere to a uniform system of numbering agreed upon by the Parties/Participants. For example, the first information request submitted by the Consumer Advocate in this docket shall be referred to and designated as "CA-IR-1," and a response to this information request shall be referred to and designated as "Response to CA-IR-1."

Each response shall be provided on a separate page and shall recite the entire question asked and set forth the response and/or reference the attached responsive document.

**B. Witnesses**

Witnesses submitting written testimony and exhibits and representatives of Participants shall be made available for cross-examination at the evidentiary hearing. Witnesses (Participant representatives) should file the workpapers used in preparing the evidence they sponsor at the time they submit their testimony and exhibits (statement of position) and have such workpapers available at the evidentiary hearing. Witnesses and Participant representatives will not be permitted to read prefiled written testimony at the evidentiary hearings.

At the evidentiary hearing, each witness may give a brief oral summary of the written testimony and exhibits and shall summarize the issues raised by such testimony or statement of position. Each witness/Participant representative shall be subject to cross-examination for both direct and rebuttal testimony and exhibits or statement of position.

The Parties and Participants shall cooperate to accommodate the schedules of mainland witnesses and will inform the Commission in advance of any scheduling difficulties with respect to such witnesses. If a Party has an objection to a timely request to schedule a mainland witness in advance of other witnesses, the Party shall make a timely objection to the Commission. The Parties will make their best effort to accommodate the schedules of mainland witnesses by coordinating their appearance at the evidentiary hearing.

**C. Form of Prepared Testimony**

All prepared testimony, including text and exhibits, shall be prepared in written form on 8-1/2" x 11" paper with line numbers and page numbers, and shall be served on the dates designated in the Schedule of Proceedings.

Each Party shall be permitted to follow its own numbering system for written testimony and exhibits, provided that the numbering system utilized is consistent and is clearly understandable. Each Party shall prepare a list of its exhibits by exhibit numbers and titles.

The Parties shall be permitted to make revisions to exhibits after the designated dates appearing in the Schedule of Proceedings. Revisions shall bear appropriate revision dates. However, revisions or additions that do more than correct typographical errors, update facts, or give numerical comparisons of the positions taken by the Parties, shall not be submitted except with the approval of the Commission.

Generally, exhibits should include appropriate footnotes, or narratives inserted in the related testimony, setting forth the sources of the information used and explaining the methods employed in making statistical compilations or estimates.

**D. Matters of Public Record**

To reduce unnecessary reproduction of documents and to facilitate these proceedings, identified matters of public record shall be admissible in this proceeding without the necessity of reproducing each document; provided that the document to be admitted is clearly identified by reference to the place of publication, file or docket number, and the identified document is available for inspection by the Commission and the Parties; and further provided that any Party has the right to explain, qualify or conduct examination with respect to the identified document. The Commission can rule on whether the identified document can be admitted into evidence when a Party proffers such document for admission as evidence in this case.

From time to time, the Parties may enter into stipulations that such documents, or any portion of such documents, may be introduced into evidence in this case.

**E. Copies of Testimony, Exhibits and Information Requests**

1. Testimony, Exhibits, Workpapers, Statement of Position, Information Requests, Responses to Information Requests, Briefs:

Commission

Original + 8 copies

HELCO	3 copies
Consumer Advocate	6 copies
KDC	1 copy
RMI	1 copy

2. All pleadings, briefs and other documents required to be filed with the Commission shall comply with the formatting requirements prescribed pursuant to Chapter 61, Subchapter 2, Section 6-61-16 of the Commission's Rules of Practice and Procedure and shall be filed at the office of the Commission in Honolulu within the time limit prescribed pursuant to Chapter 61, Subchapter 2, Section 6-61-15 of the Commission's Rules of Practice and Procedure.

3. Copies of all filings, information requests and information request responses should be sent to the Parties/Participants by hand delivery or United States mail (first class, postage prepaid). In addition, if available, all Parties/Participants shall provide copies of their filings, information requests and information request responses to the other Parties/Participants via diskette or e-mail in a standard electronic format that is readily available by the Parties/Participants. The Parties/Participants agree to use Word 97, Word 2000 or Word 2003 as the standard programming format for filings in this case. However, if workpapers, documentation, or exhibits attached to any filing are not readily available in an electronic format, a Party/Participant shall not be required to convert such workpapers, documentation, or exhibits into an electronic format. Also, existing documents produced in response to requests need not be converted to Word 97/Word 2000/Word 2003 as long as the applicable format is identified. In the event a copy of a filing, information request or information request response is delivered to a Party/Participant via diskette or e-mail, unless otherwise agreed to by such Party/Participant, the same number of copies of such filing, information request or information request response must still be delivered to such Party/Participant by hand delivery or United States mail (first class, postage prepaid) as provided in Parts F.1 above.

**F. Order of Examination at the Evidentiary Hearing**

Pursuant to Chapter 61, Subchapter 3, Section 6-61-31, of the Commission's Rules of Practice and Procedure, HELCO's witnesses shall open with its direct case. The Consumer Advocate's direct case shall be presented after HELCO's direct case, followed by the cross examination of the representatives of KDC and RMI. HELCO shall close with its rebuttal case.

Examination of any witness shall be limited to one attorney or representative for a Party. The Parties shall avoid duplicative or repetitious cross-examination. Friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the Party desiring to cross-examine. Recross-examination shall be limited to the extent of material covered in redirect examination unless otherwise permitted by the Commission.

**G. Communications**

Chapter 61, Subchapter 3, Section 6-61-29 of the Commission's Rules of Practice and Procedure concerning ex parte communications is applicable to any communications between a Party/Participant and the Commission. However, the Parties/Participants may communicate with Commission counsel on matters of practice and procedure through their own counsel or designated official.

Communications between the Parties and Participants should either be through counsel or through designated representatives. All pleadings, papers, and other documents filed in this proceeding shall be served on the opposing Party. All motions, supporting memoranda, and the like shall also be served on opposing counsel.

**H. General**

These procedures are consistent with the orderly conduct of this docket. This Stipulated

Prehearing Order shall control the subsequent course of these proceedings, unless modified by the Parties in writing and approved by the Commission, or upon the Commission's own motion.

This Stipulated Prehearing Order may be executed by the Parties/Participants in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one and the same instrument. The Parties/Participants may execute this Stipulated Procedural Order by facsimile for initial submission to the Commission to be followed by the filing of originals of said facsimile pages.

DONE at Honolulu, Hawaii, this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By \_\_\_\_\_  
Carlito P. Caliboso, Chairman

By \_\_\_\_\_  
John E. Cole, Commissioner

APPROVED AS TO FORM:

By \_\_\_\_\_  
Benedyne E. Stone  
Commission Counsel

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Stipulated Prehearing Order No. \_\_\_\_\_ upon the following Parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such Party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
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E. KYLE DATTA  
ROCKY MOUNTAIN INSTITUTE  
P.O. Box 390303  
Keauhou, HI 96739

Certificate of Service (continued)

\_\_\_\_\_  
Karen Higashi

DATED: \_\_\_\_\_



CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 22903 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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Certificate of Service  
Page 2

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*Karen Higashi*

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Karen Higashi

DATED: SEP 28 2006